



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201002050

OCT 21 2009

Uniform Issue List: 408.03-00

SE: T: EP: RA: T1

Legend:

Taxpayer A	=
Financial Institution B	=
Financial Institution C	=
Account D	=
IRA X	=
IRA Y	=
Amount 1	=

Dear:

This letter is in response to a request for a letter ruling dated April 11, 2009, in which you have applied for a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to her mental and physical conditions which impaired her ability to manage her financial affairs. Taxpayer A further asserts that Amount 1 has not been used for any other purpose.

Taxpayer A, age 79, represents that she was the owner of IRA X, a qualified individual retirement arrangement ("IRA") established and maintained at Financial Institution B under the rules of section 408 of the Code. Taxpayer A asserts that after the death of her husband in late 2007, she was challenged with understanding her finances because her deceased husband handled the financial affairs of the household. Taxpayer A represents that on February 15, 2008, she received a distribution totaling Amount 1 from IRA X with the intent of depositing the proceeds into IRA Y at Financial Institution C. On February 25, 2008, instead of depositing the distribution in IRA Y, Taxpayer A deposited Amount 1 in Account D, a non-IRA money market account. During this period, Taxpayer A also had some ongoing medical issues that she had neglected because of the constant care required by her spouse prior to his death. These health issues ultimately led to hip replacement and open heart surgeries. Because her husband had handled the family finances and because

of her ongoing medical issues, Taxpayer A did not recognize that Amount 1 had been erroneously deposited into a non-IRA money market account. Taxpayer A asserts that she did not realize her error until she began processing her Federal Income Tax Return for 2008. Taxpayer A further represents that Amount 1 remains in Account D at Financial Institution C and has not been used for any purpose.

Based on the above facts and representations, you request a ruling that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(i), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount 1 was due to her confusion regarding her financial affairs resulting from the recent death of her spouse and her ongoing medical conditions.

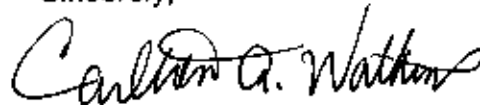
Therefore, pursuant to section 408(d)(3)(i) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA X. Pursuant to this ruling letter, Taxpayer A is granted a period of 60 days measured from the date of the issuance of this letter ruling to make a rollover contribution of an amount equal to Amount 1 to an IRA (or IRAs) described in section 408(a) of the Code. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such IRA contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact XX XXXXXX XXXXXXXX (Government Identification Number XX-XXXXX) by phone at (XXX) XXX-XXXX or by fax at (XXX) XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

- ▶ Deleted copy of ruling letter
- ▶ Notice of Intention to Disclose